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CONCORD, N.H.

William D. Beal, Jr.  
Administrative Assistant  
Department of Fish and Game  
State House Annex

Dear Sir:

You have requested an opinion from this office relative to R.S., c. 242, s. 6 as amended by c. 119, Laws of 1951. More specifically you wish an interpretation of the words "including any vehicle in which the same is being transported," as they relate to a situation where a person is picked up for illegal night hunting after disposing of the articles used in such hunting.

Assuming first that your officer has obtained a conviction of a person for illegal night hunting, it is our opinion that any jack, firearm, or any other equipment used or usable in the illegal act, is subject to forfeiture. The words "is being transported," relates back to the time of the commission of the offense, and not to the time such person is apprehended. This is of course a matter of proof, and should be determined at the original proceeding.

Very truly yours,

Arthur E. Bean, Jr.  
Assistant Attorney General

AD, Jr/T